



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 24, 1994

Mr. Anthony C. Grigsby
Executive Director
Texas Natural Resource Conservation Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR94-263

Dear Mr. Grigsby:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a) (the "act").¹ Your request was assigned ID# 24255.

The Texas Natural Resource Conservation Commission (the "commission") has received a request for two interoffice memorandums, one dated February 7, 1992 (with attachments) and one dated January 20, 1993. The commission asserts that the February 7, 1992 memorandum and its attachments are excepted from required public disclosure under sections 552.101, 552.103, and 552.111 of the act.²

Section 552.101 of the act excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You have not identified any basis for withholding the information under section 552.101, nor is one readily apparent from the face of the memorandum and its attachments. Therefore, we have no basis for concluding that the information is confidential under section 552.101.

¹We note that the Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²We assume that the January 20, 1993 memorandum has been released to the requestor.

Section 552.103 of the act excepts from required public disclosure information relating to litigation "to which the state . . . is or may be a party." Gov't Code § 552.103(a)(1). For section 552.103 to apply, it must relate to litigation to which the commission is or may be a party. You have not demonstrated the existence of any such litigation. Therefore, the memorandum and its attachments may not be withheld under section 552.103.

Section 552.111 protects internal communications consisting of advice, recommendations, or opinions reflecting the policymaking processes of the governmental body at issue. *See* Open Records Decision No. 615 (1993) at 5. It does not except from required public disclosure purely factual information that is severable from the opinion portions of a memorandum. *Id.* at 4-5. We have reviewed the requested memorandum and its attachments. While most of the information is factual, some of the documents contain advice, recommendations or opinions reflecting the policymaking processes of the commission. This information has been marked and may be redacted. The remainder of the information must be disclosed.

Because case law and prior published open records decisions resolve your request, we address it with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/LRD/rho

Ref.: ID# 24255

Enclosures: Marked documents

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(w/o enclosures)